



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-80
916-445-2130 • FAX 916-324-3984
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

August 8, 2008

To Interested Parties:

**Notice of Proposed Regulatory Action
by the
State Board of Equalization**

Proposed to Adopt Regulation 1602.5, *Reporting Methods for Grocers*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by section 15606, subdivision (a), of the Government Code, proposes to amend section 1602.5, *Reporting Methods for Grocers*, in Title 18 of the California Code of Regulations, relating to the use of electronic scanning systems. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on Wednesday, October 1, 2008. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by October 1, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Sales and Use Tax Regulation 1602.5 provides that in preparing sales and use tax returns, grocers may use any method of determining the amount of their sales of exempt food products which does not result in an overstatement of the exemption. Grocers are required to be prepared to demonstrate by records, which can be verified by audit, that the method used properly reflected their sales of exempt food products. The electronic scanning systems method is one of the prescribed methods grocers may use for reporting the tax. At the time the regulation was updated in 1995, the use of scanners was a relatively new technology and there was a need to standardize and define what type of documentation was necessary to support reported taxable and nontaxable sales and verify the accuracy of the reporting system. Consequently, language was added to the regulation requiring grocers who were contemplating use of an electronic scanning system as a reporting method to notify the Board and submit a general outline of the proposed procedures for review and approval prior to using this reporting method.

Staff has now determined that the review and approval procedures are obsolete and proposes to amend Regulation 1602.5 by eliminating the requirement that grocers get Board approval before using an electronic scanning method to report the tax. Staff further recommends deleting the language urging grocers to seek Board approval prior to using the modified purchase ratio and the cost plus markup methods of reporting the tax.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5, subdivision (a)(8), the Board of Equalization makes an initial determination that the adoption of the amendments to Regulations 1602.5 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendments to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulations 1602.5 and the proposed changes have no comparable federal regulations.

AUTHORITY

Sections 7051 and 7051.5, Revenue and Taxation Code

REFERENCE

Sections 6359 and 6373, Revenue and Taxation Code

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. Tim Treichett (916) 324-2640, at 450 N Street, Sacramento, CA 95814, e-mail Tim.Treichett@boe.ca.gov or MIC:82, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Richard Bennion, Regulations Coordinator, telephone (916) 445-2130, fax (916) 324-3984, e-mail Richard.Bennion@boe.ca.gov or by mail at State Board of Equalization, Attn Richard Bennion, MIC:81, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

August 8, 2008

ALTERNATIVES CONSIDERED

The Board determined that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored and strikeout version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's Web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's Web site following its public hearing of the proposed regulation. It will also be available for public inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Mr. Bennion. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

Sincerely,

Diane G. Olson, Chief
Board Proceedings Division

DGO:reb

Enclosures